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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,719	10/20/2000	Thomas Broquist	62101-TP	4085

7590 05/17/2004  
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EXAMINER

PHAN, TAM T

ART UNIT PAPER NUMBER

2144

DATE MAILED: 05/17/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/673,719

Applicant(s)

BROQUIST ET AL.

Examiner

Tam (Jenny) Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Amendment C, paper #9, received on 03/09/2004 has been entered into record. Claims 1-26 are amended, claims 28-30 are newly added, and claim 27 is original.
2. Claims 1-30 remain pending.

***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
4. The effective filing date for the subject matter defined in the pending claims in this application is 04/03/2000.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 11, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skopp et al. (U.S. Patent Number 6,256,739), hereinafter referred to as Skopp, in view of Itabashi et al. (U.S. Patent Number 6,308,203), hereinafter referred to as Itabashi.
7. Regarding claim 1, Skopp disclosed a system operable to identify and access information about a user of a distributed communication system wherein the system comprises at least one service device operable to provide services to said user, at least

one access device operable to provide access to said distributed communication system, wherein said system also comprises:

- a. A service device to provide service to user and an access device to provide access to said system (column 2 lines 19-23).
  - b. A control means connected to said access device to service device and an access device is connected to an identification device to identify an address of a specific user (Figures 1B and 4).
  - c. A storage device is connected to a control means. The control means is connected to a cache means operable to store mappings of user address and identification and a service device sends a request a user request to the control means, which checks to see if cache means contains a current user profile (Figure 1B).
  - d. If user profile is up-to-date, fetch information from storage device and sends reply to the service device else sends an address request for real time identification to the access device and the access device identifies said address with the help of the identification device and sends user identification to the control means (column 6 lines 50-64 and column 8 lines 34-49).
  - e. The control means fetches user information from the store device and send a reply to the service device (Figure 1B, column 6 lines 50-64).
8. Skopp did not expressly disclose at least one control means is connected to at least one access and to at least one service device *via the Internet [identifying information is sent via the Internet to the control means]*.

9. Skopp suggested exploration of art and/or provided a reason to modify the system with the Internet feature (Figures 1-2 sign 100, column 2 lines 18-23).

10. In an analogous art, Itabashi disclosed at least one control means is connected to at least one access device and to at least one service device via the Internet (Figure 1, column 2 lines 3-12, column 4 lines 1-11, column 6 lines 12-36)

11. It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to modify the system of Skopp with the teachings of Itabashi to allow sending identifying information via the Internet to the control means because this would free the user from inputting the same personal information every time he or she accesses the service or information providers (Itabashi, column 1 lines 39-42) since it is a time-wasting effort to require user to input the same information repeatedly (column 1 lines 31-33).

12. Regarding claim 11, the method of claim 11 corresponds directly to the system in claim 1, and thus is rejected using the same rationale.

13. Regarding claim 28, Skopp and Itabashi combined disclosed a method of identifying and obtaining information about a computer user that accesses a website or a service on the Internet comprising the steps of: requesting a website or a service from the Internet by the computer user (Skopp, column 5 lines 58-65); sending a request for identifying information on the user to a third party entity via the Internet if the website initially cannot determine the user's identity (Itabashi, Figure 1, column 2 lines 3-13); retrieving the user's identifying information from a stored database accessible by the third party entity if the identifying information sought is included in the database

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(Itabashi, Figure 1, column 2 lines 3-13); retrieving the user's identifying information, by the third party entity, from an Internet access provider associated with the user's present session if the identifying information sought is not included in the database or is outdated (Skopp, column 8 lines 26-40; Itabashi, Abstract, Figure 1, column 4 lines 42-52, column 5 lines 59-67, column 8 lines 54-67) ; and sending the identifying information from the third party entity to the website (Skopp, Abstract, column 3 lines 54-67).

14. Since all the limitations of the claimed invention were disclosed by the combination of Skopp and Itabashi, claims 1, 11, and 28 are rejected.

15. Claims 2-10, 12-27, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skopp et al. (U.S. Patent Number 6,256,739) in view of Itabashi et al. (U.S. Patent Number 6,308,203) as applied to claims 1 and 11 above, and further in view Tran (U.S. Patent Number 6,505,238).

16. The combination of Skopp and Itabashi disclosed a system operable to identify and access information about a user of a distributed communication system characterized with all the limitations listed in claim 1 rejection above.

17. Regarding claims 2 and 3, The combination of Skopp and Itabashi did not disclose a distributed communication system characterized in that a) said system is divided into a number of geographical regions based on the distance between different geographical regions and b) said distance is measured by the delay between individual control means.

18. However, in an analogous art, Tran disclosed a distributed communication system divided into two different geographical regions based on the distance between two cities (Figure 2). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention was made to characterized the distributed communication system in that said system is divided into a number of geographical regions based on the distance between different geographical regions and said distance is measured by the delay between individual control means in order to minimize network delay and maximize connectivity speed because users only have to share access resources with users that are in the same geographic region and since users locate closer to their control means, network delay due to distances will also be reduced.

19. Regarding claim 4, Skopp did not disclose a system operable to identify and access information about a user of a distributed communication system characterized in that each geographical region comprises a central control means, a central storage device, and in that each geographical region can comprise at least one regional control means, at least on a regional storage device, and at least one access device. Tran disclosed a distributed communication system comprised a central control means, a central storage device, multiple regional control means, multiple regional devices, and multiple access devices (Figure 2, column 1 lines 29-34, lines 48-53). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention was made to characterized a distributed communication system to have central and regional control means, storage devices, and access device as mentioned in the claim limitations in order to efficiently allocate resources among geographical

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regions. Having regional control means will help to reduce network traffic because users only have to share access resources with users that are in the same geographic region instead of sharing access resource with users across all geographic regions to access one central control means.

20. Regarding claim 5, Skopp further disclosed a system operable to identify and access information about a user of a distributed communication system characterized in that each geographical region also can comprise a supplier means operable to distribute information, and at least one attach means operable to attach additional information to identifications, wherein said supplier means is connected to said at least one access device and to said at least one attach means (Figure 1B).

21. Regarding claim 6, Skopp further disclosed a system operable to identify and access information about a user of a distributed communication system characterized in that each service device is connected to a first interface unit, which in turn is connected to said at least one control means, in that each control means is connected to a second interface unit, which in turn is connected to said at least one access device, and in that each control means also is connected to said at least one storage device (Figure 1B).

22. Regarding claim 7, Skopp further disclosed a system operable to identify and access information about a user of a distributed communication system characterized in that said distributed communication system is the Internet (Figure 1B, column 2 lines 1-4, 19-24).

23. Regarding claim 8, Skopp further disclosed a system operable to identity and access information about a user of a distributed communication system characterized in



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that each service device is an online service provider, each access device is an Internet access provider, and each control means is a server (Figure 1B, column 2 lines 1-4, 19-24).

24. Regarding claim 9, Skopp further disclosed a system operable to identify and access information about a user of a distributed communication system characterized in that each supplier means is a first supplier server, and each attach means is a second supplier server (Figure 4, column 2, lines 1-4, lines 18-21).

25. Regarding claim 10, Skopp further disclosed a system operable to identify and access information about a user of a distributed communication system characterized in that said address of a user is an IP-address.

26. Regarding claims 12-26, the method of claims 12-26 correspond directly to the system in claims 2-10, and thus are rejected using the same rationale (refer to claims 2-10 rejection for details).

27. Regarding claim 27, Skopp implicitly disclosed a computer program product directly loadable into the internal memory of at least one digital computer comprising software code portions for performing the steps of claim 11 when said at least one product is/are run on said at least one computer (column 13, lines 54-58).

28. Regarding claim 29, Tran disclosed a method wherein the computer user, website, and third party entity is be located in different geographical regions (Figures 2-3, column 5 lines 41-65, column 3 lines 17-25).

29. Regarding claim 30, Skopp disclosed a method wherein the third party entity checks a cache means for updated information on the user prior to the step of retrieving

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the user's identifying information from the stored database (Figure 1B, column 8 lines 19-48, column 9 lines 52-65).

30. Since all the limitations of the claimed invention were disclosed by the combination of Skopp, Itabashi, and Tran, claims 2-10, 12-27, and 29-30 are rejected.

### **Response to Arguments**

31. Applicants' arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

32. In response to Applicants' argument, Amendment C, paper #9, filed 03/09/2004, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the method and objective of the present invention is completely different in that user's identifying information is determined without the user's intervention i.e. the user is not required to enter a password in a log-in procedure in order to identify to be established, as stated on page 2, lines 5-16 in the description) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

33. In response to applicant's arguments, the recitation "a system operable to identify and access information about a user of a distributed communication system in real time without the users intervention" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for

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completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

34. In response to Applicants' argument, "the presently amended claims 1 and 11 clearly state that the identifying information is sent via the Internet to the control means 101 or 103 of the third party entity and forwarded to the service device 108 or the original website", it is submitted that the limitation of sending identifying information via the Internet is taught by Itabashi. Refer to the above rejection for details.

35. Applicants' response to the applications of Skopp and Tran in Amendment C, paper #9, filed 03/09/2004, argued "the cited combination of Skopp and Tran is not appropriate in view of the objective of the present invention of not requiring intervention by the user to obtain identifying information", it is submitted that the objective of the present invention occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

36. As the rejection reads, Examiner asserts that the combination of these teachings render the claimed invention obvious.

***Conclusion***

37. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

38. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Liao et al. (U.S. Patent Number 6,148,405) disclosed a method and system for establishing an authenticated and secure communication session for transactions between a server and a client. The client having limited computing resources is remotely located with respect to the server and communicates to the server through the wireless data network. To authenticate each other, the client and the server conduct two rounds of authentication, the client authentication and the server authentication, independently and respectively, each of the

authentication processes is based on a shared secret encrypt key and challenge/response mechanism. To reach for a mutually accepted cipher in the subsequent transactions, the server looks up for a commonly used cipher and forwards the cipher along with a session key to the client.

b. DiGiorgio et al. (U.S. Patent Number 6,385,729) disclosed a secure token device, such as a smart card or an ibutton, provides a user with a vehicle for accessing services that are provided by an Internet Service Provider (ISP). The user places the secure token device in communication with a reader that is coupled to a computer system. The computer system includes a web browser for accessing the services provided by the ISP. The secure token device may perform an authentication protocol to authenticate itself to the ISP. The secure token device may hold an electronic currency token for payment of services rendered by the ISP. The secure token device may contain stored personal information about the user. The user may stipulate what portions of this personal information are provided to the ISP upon request. Contextual information regarding sessions with the ISP may also be stored on the secure token device and used to restore a context of a previous session during a subsequent session.

40. Refer to the enclosed PTO-892 for details and complete listing of other pertinent prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam (Jenny) Phan whose telephone number is (703) 305-4665. The examiner can normally be reached on M-F 9:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on 703-308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 11, 2004